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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

In re)	Case No. 05-31161-C-7
THOMAS J. NATURALE and)	DC No. RWD-1
SANDRA L. NATURALE,)	
Debtors.)	

**FINDINGS OF FACT AND CONCLUSIONS OF LAW
ON MOTION TO VACATE STAY**

These findings of fact and conclusions of law are rendered in this contested matter pursuant to Federal Rule of Civil Procedure 52 as incorporated by Federal Rules of Bankruptcy Procedure 7052 and 9014.

Jurisdiction

Jurisdiction is founded upon 28 U.S.C. § 1334. This is a core proceeding. 28 U.S.C. § 157(b)(2)(G).

Findings of Fact

Debtors filed this voluntary chapter 7 petition on September 8, 2005.

On September 27, 2005, Fred Wright ("movant") filed a

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1 motion, notice, and declaration requesting that this court lift
2 the automatic stay in order to proceed with an eviction action
3 against debtor. The hearing on the motion was set for October
4 25, 2005. No opposition to the motion was filed. Upon review
5 of the record, the court determined that the written record was
6 adequate and that no oral argument was necessary.

7 On July 19, 2002, debtors entered into a agreement with
8 the movant to rent real property commonly known as 3517 Sue Pam
9 Drive, #A, Carmichael, California. The debtors have failed to
10 comply with the obligations under the lease since July 2005.
11 On July 29, 2005, movant filed an unlawful detainer action,
12 which resulted in a Stipulation and Order that debtors have not
13 complied with. On August 31, 2005, the movant obtained a writ
14 of possession in state court. The eviction process was halted
15 by the filing of the debtor's bankruptcy petition.

16 17 18 Conclusions of Law

19 The automatic stay of acts against the debtor in personam
20 and of acts against property other than property of the estate
21 continues until the earliest of the time when the bankruptcy
22 case is closed, dismissed, or an individual in a chapter 7 case
23 is granted a discharge. 11 U.S.C. § 362(c). However, the
24 automatic stay may be terminated earlier if debtor fails to
25 adequately protect the secured party's interest, § 362(d)(1),
26 and, with respect to a stay of an act against property, the
27 debtor does not have equity in the property, § 362(d)(2)(A),
28 and the property is not necessary to an effective

1 reorganization. § 362(d)(2).

2 Because the debtors rent the property and do not own the
3 property, the property is not property of the estate, and hence
4 the debtor has no equity in the property. Therefore the motion
5 will be granted and the movant may proceed with the eviction.

6 An appropriate order will issue.

7 Dated: October 27, 2005

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10 UNITED STATES BANKRUPTCY JUDGE
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CERTIFICATE OF SERVICE

On the date indicated below, I served a true and correct copy(ies) of the attached document by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed and by depositing said envelope in the United States mail or by placing said copy(ies) into an interoffice delivery receptacle located in the Clerk's Office.

Thomas and Sandra Naturale
3517 Sue Pam Drive
Carmichael, CA 95608

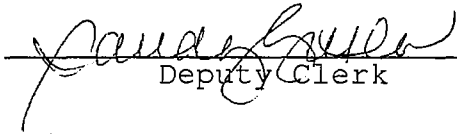
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Office of the United States Trustee
United States Courthouse
501 I Street, Suite 7-500
Sacramento, CA 95814

Dated:

10/31/05


Deputy Clerk